

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUMMONS FOR JUDGMENT NO.560 OF 2003

IN

SUMM. SUIT NO.3936 OF 2002

Prakashchand Jaichandji .. Plaintiff

versus

Subhash Tile Centre & anr .. Defendants

...

Mr.Ramesh Jain for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 16th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendants. Learned counsel for the plaintiff hands in the affidavit of service and the documents under a list. The affidavit is taken on record and marked Exhibit A. The documents are collectively marked Exhibit B.

2. Despite service, the defendants have not applied for leave to defend nor filed any affidavit in reply

entitling the plaintiff to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

3. I have perused the plaint and the documents filed on record. For valuable consideration the defendant no.1 drew a bill of exchange on the defendant no.2. The defendant no.2 accepted the bill of exchange and signed the acceptance. The defendants failed and neglected to make the payment. By advocate's notice the plaintiff demanded the payment but, the defendants failed to pay. The original bill of exchange and office copy of the notice of demand is filed on record. In the absence of any affidavit in reply, the averments made in the plaint are deemed to be admitted. Hence, I pass the following order :

" Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows :

" The defendants shall pay to the plaintiff a sum of Rs.72,883.28 together with interest on the principal sum of Rs.40,000/- at 9 % p.a. from the date of the suit till payment and all costs of the suit. "

D.G.KARNIK, J